



DONELAN CLEARY
WOOD & MASER, P.C.

May 14, 1999

Via Hand Delivery

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

RECORDATION NO. **22157**

FILED

MAY 14 '99

10-30AM

Dear Secretary Williams:

Enclosed for recordation, under the provisions of 49 U.S.C. § 11301(a) and the regulations promulgated thereunder, are executed counterparts of a Railcar Mortgage & Security Agreement, dated as of May 6, 1999 (the "Railcar Mortgage"), by Somerset Railroad Corporation ("Pledgor"), a New York corporation, in favor of CIBC, Inc. ("Secured Party"), a primary document not previously recorded.

The names and addresses of the parties to the enclosed document are as follows:

PLEDGOR/for Indexing MORTGAGOR	-	Somerset Railroad Corporation c/o The AES Corporation 1001 North 19 th Street 20 th Floor Arlington, VA 22209
SECURED PARTY/for Indexing MORTGAGEE	-	CIBC, Inc. 425 Lexington Avenue New York, NY 10017

Pursuant to the said Railcar Mortgage, the Pledgor, among other things, grants to the Secured Party a continuing security interest in, and a continuing lien upon, all railroad cars, locomotives, railroad tank cars, covered hopper cars and other rolling stock, including the units of equipment that are more fully described in Schedule A hereto, now owned or hereafter acquired by the Pledgor, together with all accessories, equipment, parts and appurtenances appertaining or attached thereto.

A short summary of the Railcar Mortgage to appear in the STB Index is as follows:

"Covers all railroad cars, locomotives, railroad tank cars, covered hopper cars and other rolling stock, including the units of equipment described in Schedule A hereto, now owned or hereafter acquired by Pledgor."

ATTORNEYS AND COUNSELORS AT LAW

1100 New York Avenue, Suite 750, N.W., Washington, D.C. 20005-3934, Tel: 202-371-9500, Fax: 202-371-0900

Letter to Honorable Vernon A. Williams

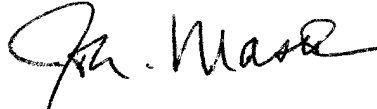
May 14, 1999

Page 2

Enclosed is a remittance in the amount of \$26.00 for the required recording fee.

Once the filing has been made, please return to bearer the stamped counterparts not needed for your files, together with the fee receipt, the letter from the secretary acknowledging the filing, and the extra copies of this letter of transmittal.

Very truly yours,

A handwritten signature in black ink, appearing to read "John K. Maser III". The signature is fluid and cursive, with the first name "John" being more prominent.

John K. Maser III

*Attorney for purposes of this filing for
Somerset Railroad Corporation and CIBC, Inc.*

Enclosures

SCHEDULE A

Schedule 5.01(b)

DESCRIPTION OF INITIAL COLLATERAL
(INCLUDING IDENTIFYING NUMBERS PURSUANT TO SECTION 2.06)

1. The railroad freight cars manufactured by Ortner Freight Car company in 1983 and 1984 and assigned the following identification numbers:

SOM 101-132, 134-153, 155-163, 165-169, 171-176, 178-188,
200-205, 207-216, 218-235, 237-254, 256-257, 260-286,
288, 300-309, 400
2. The railroad freight cars manufactured by Bethlehem Steel Railcar Company in 1989 and assigned the following identification numbers:

SOM 501-502, 504-507, 509-510, 512-514, 516-526
3. The railroad freight cars manufactured by Johnstown America in 1993 and assigned the following identification numbers:

SOM 600-799, 801-831

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EXECUTION COPY

MAY 14 '99

10-30AM

RAILCAR MORTGAGE & SECURITY AGREEMENT

dated as of May 6, 1999

Between

SOMERSET RAILROAD CORPORATION

and

CIBC, INC.,
as Secured Party

TABLE OF CONTENTS

Page

ARTICLE 1

SECURITY INTEREST

Section 1.01	Grant of Security Interest.....	1
Section 1.02	Validity and Priority of Security Interest.....	1
Section 1.03	Pledgor Remains Obligated; Secured Party and Other Principals Not Obligated.....	1
Section 1.04	Pledgor's Limited Rights to Proceeds and Other Collateral.....	1

ARTICLE 2

CERTAIN REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 2.01	General.....	2
Section 2.02	Collateral.....	2
Section 2.03	Requirement of Materially Adverse Effect.....	4
Section 2.04	Further Assurances.	4
Section 2.05	Recordation and Filing.....	4
Section 2.06	Marking of Collateral.....	4
Section 2.07	Additional Property.....	5

ARTICLE 3

EVENT OF DEFAULT

A. Proceeds.	5
Section 3.01 Application of Proceeds.....	5
B. Remedies.	6
Section 3.02	6
(a) Use of Premises and Intellectual Property.	6
(b) Receiver.....	6
(c) Collection of Collateral Proceeds by Pledgor.	6
(d) Notification.....	6
(e) Secured Party's Rights with Respect to Proceeds and Other Collateral.	6
(f) Enforcement by Secured Party.....	6
(g) Adjustments.....	7
(h) Warehousing.....	7

ARTICLE 4

MISCELLANEOUS

Section 4.01	Expenses of Pledgor's Agreements and Duties.	7
Section 4.02	Secured Party's Right to Perform on Pledgor's Behalf.	7
Section 4.03	Secured Party's Right to Use Agents and to Act in Name of Pledgor.	7
Section 4.04	No Interference, Compensation or Expense.	7
Section 4.05	Limitation of Obligations with Respect to Collateral.	7
Section 4.06	Rights of Secured Party Under Uniform Commercial Code and Applicable Law.	8
Section 4.07	Waivers of Rights Inhibiting Enforcement.	8
Section 4.08	Power of Attorney.	8
Section 4.09	Termination of Security Interest.	9
Section 4.10	Notices.	9
Section 4.11	Governing Law.	9
Section 4.12	LIMITATION OF LIABILITY.	10
Section 4.13	Counterparts.	10
Section 4.14	Entire Agreement.	10
Section 4.15	Successors and Assigns.	10
Section 4.16	Delivery of Opinions Authorized.	10

ARTICLE 5

INTERPRETATION

Section 5.01	Definitional Provisions.	10
	(a) Certain Terms Defined by Reference.	10
	(b) Other Defined Terms.	11
Section 5.02	Other Interpretative Provisions.	13
Section 5.03	Representations and Warranties.	14
Section 5.04	Captions.	14

Schedule 1.02	Schedule Of Required Action
Schedule 2.01(c)	Schedule Of Required Recording And Other Taxes And Recording, Filing And Other Fees And Charges
Schedule 5.01(b)	Schedule Of Initial Collateral

RAILCAR MORTGAGE & SECURITY AGREEMENT

Dated as of May 6, 1999

In consideration of the execution and delivery of the Credit Agreement by the Banks listed on the signature pages thereof and CIBC, INC., as Agent, SOMERSET RAILROAD CORPORATION, a New York corporation, hereby agrees with CIBC, INC., as Secured Party, as follows (with certain terms used herein being defined in Article 5):

ARTICLE 1

SECURITY INTEREST

Section 1.01 Grant of Security Interest. The Pledgor, in consideration of the execution and delivery of the Credit Agreement and of the sum of Ten Dollars (\$10) received by the Pledgor from the Secured Party and other good and valuable consideration, receipt and sufficiency whereof is hereby acknowledged, and in order to secure the payment, observance and performance of the Secured Obligations, the Pledgor hereby assigns, mortgages, pledges, hypothecates, transfers and sets over the Collateral to the Secured Party, and grants to the Secured Party a continuing security interest in, and a continuing lien upon, the Collateral.

Section 1.02 Validity and Priority of Security Interest. The Pledgor agrees that (a) the Security Interest shall, and that the Pledgor shall take all action necessary or desirable, or that the Secured Party may request, including the actions specified on Schedule 1.02, so that the Security Interest shall, at all times be valid, perfected and enforceable against the Pledgor and all third parties, in accordance with the terms hereof, as security for the Secured Obligations, and (b) the Collateral shall not at any time be subject to any Lien, other than a Permitted Lien, that is prior to, on a parity with or junior to such Security Interest.

Section 1.03 Pledgor Remains Obligated; Secured Party and Other Principals Not Obligated. The grant by the Pledgor to the Secured Party of the Security Interest shall not (a) relieve the Pledgor of any Liability to any Person under or in respect of any of the Collateral or (b) impose on the Secured Party or the other Principals any such Liability or any Liability for any act or omission on the part of the Pledgor relative thereto.

Section 1.04 Pledgor's Limited Rights to Proceeds and Other Collateral. (a) Except during an Event of Default and except as otherwise provided herein or in any of the other Collateral Documents, the Pledgor shall be entitled to receive and retain all proceeds of insurance required to be maintained pursuant to Section 2.02(a)(iv)(B), but only to the extent (1) such insurance proceeds are to be applied to restore or replace the property damaged and (2) in the case of any particular loss, such insurance proceeds do not exceed (aa) \$500,000 or (bb), if a Default exists, \$100,000 and the Required Banks shall have consented to such receipt.

(b) Subject to the Pledgor's rights under Section 1.04(a), the Secured Party shall be entitled to receive and retain all proceeds of Collateral. Subject to its rights under Section 1.04(a), the Pledgor shall hold all proceeds of Collateral in trust for the Secured Party, not commingle the same with other property or funds of the Pledgor and, unless the Secured Party shall have otherwise instructed the Pledgor, deliver the same or cause the same to be delivered in the exact form received, together with any necessary endorsements, to the Secured Party.

ARTICLE 2

CERTAIN REPRESENTATIONS, WARRANTIES, AND COVENANTS

The Pledgor represents, warrants and covenants as follows:

Section 2.01 General. (a) The Pledgor (i) is, and at all times shall be, a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of incorporation specified in the Questionnaire, (ii) has, and at all times shall have, the corporate power and authority to own its property and to carry on its business as now being, and hereafter proposed to be, conducted, (iii) is, and shall at all times be, duly qualified and in good standing as a foreign corporation, and authorized to do business, in all jurisdictions in which the character of its property or the nature of its business requires such qualification or authorization, except for such jurisdictions in which the failure so to be qualified or in good standing would not have a Materially Adverse Effect on the Collateral, (iv) has, and shall at all times have, the power, and has taken, and in the future shall take, all necessary action (including any necessary stockholder action), and has obtained, and shall in the future obtain, all Governmental Approvals necessary, to authorize it, to execute and deliver the Collateral Documents and perform the same in accordance with their respective terms, and (v) is, and at all times shall be, in compliance with all Applicable Law, except for non-compliances which, individually or in the aggregate, will not have a Materially Adverse Effect on the Collateral.

(b) This Agreement is, and at all times shall be, and each of the other Collateral Documents when delivered to the Secured Party shall be, a legal, valid and binding agreement of the Pledgor, enforceable in accordance with its terms. The execution, delivery and performance in accordance with their respective terms by the Pledgor of the Collateral Documents does not and (absent any change in any Applicable Law) will not violate or conflict with, result in a breach of, constitute a Default under, or result in or require the creation of any Lien (other than the Security Interest) upon any assets of the Pledgor under, (i) any Contract to which the Pledgor is a party or by which the Pledgor or any of its properties may be bound, or (ii) any Applicable Law.

(c) Except for those specified on Schedule 2.01(c), no recording or other taxes or recording, filing or other fees or charges are payable in connection with, arise out of, or are in any way related to, the execution, delivery, performance, filing or recordation of any of the Collateral Documents or the creation or perfection of the Security Interest.

Section 2.02 Collateral. (a) The Pledgor shall (i) have good title to, and be the sole owner of, each asset that is Collateral, (ii) defend the Collateral against the claims and demands of all third Persons, (iii) pay or cause to be paid all Taxes, assessments and governmental charges levied or

assessed or imposed upon or with respect to the Collateral or the execution, delivery and performance of the Collateral Documents, (iv) (A) properly maintain such property and keep it in good order and repair in compliance with all AAR mechanical regulations and other Applicable Laws, and (B) keep such property fully insured with responsible companies acceptable to the Secured Party against such risks as such Collateral may be subject to, or as the Secured Party may request, under policies containing loss payable clauses naming the Secured Party as loss payee and otherwise in form and substance satisfactory to the Secured Party, (v) maintain products liability insurance in amounts, with insurers, and under policies (which shall name the Secured Party and the other Principals as additional insureds), acceptable to the Secured Party, (vi) comply with (A) all Applicable Laws relating to or affecting the Collateral, and (B) the requirements of all deeds, leases, mortgages and other Contracts relating to premises where any Collateral is located, (vii) subject, during an Event of Default, to the Secured Party's rights under Sections 3.02(c) and 3.02(f) hereof, endeavor to collect from the Collateral Debtor of each Collateral Obligation when due all amounts owing thereunder, except that this clause (vii) shall not require the Pledgor to take any action not in accordance with its customary collection practices, (viii) maintain its chief executive office only at and shall keep all tangible property that is Collateral only at or in transit to, (A) in the case of such chief executive office or other office, the location thereof specified in, and in the case of any such tangible property, any of the respective locations therefor specified in, the Questionnaire, or (B) in any case, a location of which the Secured Party has received not less than 45 days prior written notice and which is located within one of the States of the United States (other than Louisiana), (ix) give the Secured Party (A) prompt notice of (1) each new location of any Collateral, and (2) any substantial loss or depreciation in the value of any of the Collateral, and (B) copies of all notices or other communications received by the Pledgor with respect to any Collateral registered in the name of the Pledgor, and (x) provide the Secured Party with such other information as to the Collateral as the Secured Party may request.

(b) The Pledgor shall not (i) except with respect to Permitted Liens, file, or suffer to be on file, or authorize or permit to be filed or to be on file, in any jurisdiction, any financing statement or like instrument with respect to the Collateral in which the Secured Party is not named as the sole secured party, (ii) sell, lease, transfer or otherwise dispose of any Collateral or any interest therein or thereunder, except to the extent permitted in Section 5.11 of the Credit Agreement, or (iii) without giving at least 45 days' prior written notice to the Secured Party, (A) change its name, identity or corporate structure, or (B) do business under any name, trade name or trade style not listed on, or use any invoice not attached to, the Questionnaire.

(c) All Collateral (A) is and shall at all times be in good operating condition and repair, normal wear and tear excepted, and (B) complies and is operated and shall at all times comply and be operated in compliance with all Applicable Laws.

(d) The Secured Party shall have the right from time to time, to (A) visit and inspect any premises where any Collateral, or any records and files related thereto, is located, (B) inspect, and verify the amount, quantity, value and condition of and any other matter relating to, the Collateral and inspect, review, audit and make extracts from all records and files related thereto, (C) discuss with any Person, including the principal officers and the independent certified public accountants of the Pledgor (and each such Person is hereby authorized to discuss with such representatives of the Secured Party) the amount, quantity, value and condition of, or any other matter relating to, the Collateral, and (D) obtain all records and files relating to the Collateral from

any Person (including any service bureau or the like) maintaining the same on behalf of the Pledgor and hereby authorizes each such Person to deliver the same to the Secured Party and the Banks.

Section 2.03 Requirement of Materially Adverse Effect. Unless the Secured Party shall have notified the Pledgor to the contrary or an Event of Default shall exist, clauses (i), (ii), (iii), (iv), (vi), (vii), and (ix) of Section 2.02(a), clause (ii) of Section 2.02(b), and clause (i) of Section 2.02(c), shall not apply in any circumstances where noncompliance, together with all other noncompliances with such clauses will not have a Materially Adverse Effect on, in the case of Section 2.02(a) (i), (ii), (iii), (iv), (v) and (x), the Collateral (but only, in the case of Section 2.02(a)(iv), the Collateral that is physical property) taken as a whole, in the case of Section 2.02(a)(vii), the Collateral Obligations taken as a whole.

Section 2.04 Further Assurances. The Pledgor shall, at its own expense, do, execute, acknowledge and deliver each further act, deed, conveyance, transfer and assurance necessary for the perfection and maintenance of the perfection of the Security Interest in the Collateral, whether now owned or hereafter acquired, with the STB, pursuant to the UCC and ITA, and as the Secured Party may consider necessary or desirable to perfect, protect, or preserve the Security Interest and to obtain the benefits of this Agreement.

Section 2.05 Recordation and Filing. (a) The Pledgor shall cause this Agreement and any amendments or supplements hereto at all times to be executed, recorded and filed, at no expense to the Secured Party, with the STB, and all financing and continuation statements to be filed with the Secretary of State of the State New York and with the County Clerks in Niagara and Tompkins counties in the State of New York, and cause such documents and all similar notices required by Applicable Law to be filed in such other jurisdictions and with such other Federal, state, provincial or local government or agency thereof where the Secured Party deems it necessary or desirable to perfect, protect, or preserve the Security Interest, in order to fully preserve and protect the rights of the Secured Party hereunder.

(b) The Pledgor hereby authorizes the Secured Party to take all action (including, without limitation, the filing of this Security Agreement and any amendments and supplements thereto and any Uniform Commercial Code financing statements or amendments thereto without the signature of or in the name of the Pledgor) that the Secured Party may deem necessary or desirable to perfect, protect, or preserve the Security Interest created hereunder and to obtain the benefits of this Security Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement filed in connection with this Agreement shall be sufficient as a financing statement.

Section 2.06 Marking of Collateral. (a) The Pledgor (i) represents that no identifying number has ever been used on any item of Collateral other than the identifying number set forth in Schedule 5.01(b) hereto with respect to such item of Collateral, (ii) will cause each item of Collateral to be kept numbered with the identifying number set forth in Schedule 5.01(b) hereto and (iii) shall keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each item of Collateral, in letters not less than one inch in height, the words, "Ownership Subject to a Railcar Mortgage and Security Agreement filed with the Surface Transportation Board." The Pledgor shall not change, or permit to be changed, the identifying number of any item of Collateral except in accordance with a statement of new identifying numbers to be substituted

therefor after the Secured Party has been notified in writing and which statement shall be filed, recorded or deposited in all public offices where this Security Agreement shall have been filed, recorded or deposited. The Pledgor shall forthwith furnish to the Secured Party an opinion of such counsel and in form and substance satisfactory to the Secured Party to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Secured Party's first priority Security Interest in such items of Collateral and no further filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to perfect, protect, or preserve the Security Interest of the Secured Party in such items of Collateral.

(b) Except as above provided, the Pledgor will not allow the name of any Person (other than the names and marks of the Pledgor or Secured Party) to be placed on any item of Collateral as a designation that might be interpreted as a claim of ownership.

Section 2.07 Additional Property. On or prior to the date it acquires any additional interest in property which constitutes Collateral under this Agreement, the Pledgor (a) shall deliver to the Secured Party (i) such amendments, supplements or other documents necessary or appropriate for creating a mortgage and security interest in favor of the Secured Party in such interest as the Agent may request and (ii) such certificates, resolutions, legal opinions, copies of filings and notices, and other materials, relating to such documents and the actions required thereunder as the Secured Party may request and (b) shall have taken all action specified on Schedule 1.02.

ARTICLE 3

EVENT OF DEFAULT

During an Event of Default, and in each such case:

A. Proceeds.

Section 3.01 Application of Proceeds. All cash proceeds received by the Secured Party upon any sale of, collection of, or other realization upon, all or any part of the Collateral and all cash held by the Secured Party as Collateral shall, subject to the Secured Party's right to continue to hold the same as cash Collateral, be applied as follows:

First: To the payment of all out-of-pocket costs and expenses incurred in connection with the sale of or other realization upon Collateral, including attorneys' fees and disbursements;

Second: To the payment of the Secured Obligations owing to the Secured Party in such order as the Secured Party may elect (with the Pledgor remaining liable for any deficiency);

Third: To the payment of the other Secured Obligations in such order as the Required Banks may elect (with the Pledgor remaining liable for any deficiency); and

Fourth: To the extent of the balance (if any) of such proceeds, to the payment to the Pledgor, subject to Applicable Law and to any duty to pay such balance to the holder of any subordinate Lien in the Collateral.

B. Remedies.

Section 3.02 (a) Use of Premises and Intellectual Property. The Secured Party may (i) enter the Pledgor's premises and, until the Secured Party completes the enforcement of its rights in the Collateral, take exclusive possession of such premises or place custodians in exclusive control thereof, remain on such premises and use the same and all machinery and equipment for the purpose of (A) completing any work in process, preparing Collateral for disposition and disposing thereof and (B) collecting Collateral Obligations, and (ii) in the exercise of its rights under this Agreement, use the Pledgor's rights in, to and under all patents, trademarks and copyrights and licenses and sublicenses thereof, to the extent of the rights of the Pledgor therein, and the Pledgor hereby grants a license to the Secured Party for such purpose, subject to the consent, if required, of any licensor, franchisor or other third Person.

(b) Receiver. The Secured Party may obtain the appointment of a receiver of the Collateral and the Pledgor consents to and waives any right to notice of such appointment.

(c) Collection of Collateral Proceeds by Pledgor. The Secured Party may, by notice to the Pledgor, direct it to, and thereupon the Pledgor shall, receive all proceeds of Collateral in trust for the Secured Party, not commingle the same with any other property or funds of the Pledgor and, unless the Secured Party shall have otherwise instructed the Pledgor, deliver or cause to be delivered all such proceeds in the exact form received, together with any necessary endorsements, to the Secured Party or to such Person or Persons as the Secured Party may designate.

(d) Notification. The Secured Party may notify, or request the Pledgor to notify, in writing or otherwise each Collateral Debtor to make payment directly to the Secured Party. If, notwithstanding the giving of any notice, any such Person shall make payments to the Pledgor, the Pledgor shall hold all such payments it receives in trust for the Secured Party, without commingling the same with other funds or property of the Pledgor or any other Person, and shall deliver the same to the Secured Party immediately upon receipt by the Pledgor in the identical form received, together with any necessary endorsements.

(e) Secured Party's Rights with Respect to Proceeds and Other Collateral. All payments and other deliveries received by or for the account of the Secured Party from time to time, together with the proceeds of all other Collateral from time to time held by or for the account of the Secured Party may, at the election of the Secured Party, (i) be or continue to be held by the Secured Party, or any Person designated by the Secured Party to receive or hold the same, as Collateral, (ii) be applied as provided in Section 3.01 or (iii) be disposed of in accordance with the provisions of this Agreement and Applicable Law.

(f) Enforcement by Secured Party. The Secured Party may, without notice to the Pledgor and at such time or times as the Secured Party in its sole discretion may determine,

exercise any or all of the Pledgor's rights in, to and under, or in any way connected with or related to, any or all of the Collateral.

(g) Adjustments. The Secured Party may settle or adjust disputes and claims directly with Collateral Debtors for amounts and on terms that the Secured Party considers advisable and in all such cases only the net amounts received by the Secured Party in payment of such amounts, after deduction of out-of-pocket costs and expenses of collection, including reasonable attorneys' fees, shall be subject to the other provisions of this Agreement.

(h) Warehousing. The Secured Party may cause any or all of the Collateral to be placed in a public or field warehouse.

ARTICLE 4

MISCELLANEOUS

Section 4.01 Expenses of Pledgor's Agreements and Duties. The terms, conditions, covenants and agreements to be observed or performed by the Pledgor under the Collateral Documents shall be observed or performed by it at its sole cost and expense.

Section 4.02 Secured Party's Right to Perform on Pledgor's Behalf. If the Pledgor shall fail to observe or perform any of the terms, conditions, covenants and agreements to be observed or performed by it under the Collateral Documents, the Secured Party may (but shall not be obligated to) do the same or cause it to be done or performed or observed, either in its name or in the name and on behalf of the Pledgor, and the Pledgor hereby authorizes the Secured Party so to do.

Section 4.03 Secured Party's Right to Use Agents and to Act in Name of Pledgor. The Secured Party may exercise its rights and remedies under the Collateral Documents through an agent or other designee and, in the exercise thereof, the Secured Party or any such other Person may act in its own name or in the name and on behalf of the Pledgor.

Section 4.04 No Interference, Compensation or Expense. The Secured Party may exercise its rights and remedies under the Collateral Documents (a) without resistance or interference by the Pledgor, (b) without payment of any rent, license fee or compensation of any kind to the Pledgor and (c) for the account, and at the expense, of the Pledgor.

Section 4.05 Limitation of Obligations with Respect to Collateral. (a) Neither the Secured Party nor any other Principal shall have any obligation to protect or preserve any Collateral or to preserve rights pertaining thereto other than the obligation to use reasonable care in the custody and preservation of any Collateral in its actual possession. The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Secured Party accords its own property. The Secured Party shall be relieved of all responsibility for any Collateral in its possession upon surrendering it, or tendering surrender of it, to the Pledgor.

(b) Nothing contained in the Collateral Documents shall be construed as requiring or obligating the Secured Party or any other Principal, and neither the Secured Party nor any other Principal shall be required or obligated, to (i) make any demand, or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or notice or take any action, with respect to any Collateral Obligation or any other Collateral or the monies due or to become due thereunder or in connection therewith, (ii) ascertain or take action with respect to calls, conversions, exchanges, maturities, tenders, offers or other matters relating to any Collateral, whether or not the Secured Party or any other Principal has or is deemed to have knowledge or notice thereof, (iii) take any necessary steps to preserve rights against any prior parties with respect to any Collateral or (iv) notify the Pledgor of any decline in the value of any Collateral.

Section 4.06 Rights of Secured Party Under Uniform Commercial Code and Applicable Law. The Secured Party shall have, with respect to the Collateral, in addition to all of its rights and remedies under the Collateral Documents, (a) the rights and remedies of a secured party under the Uniform Commercial Code, whether or not the Uniform Commercial Code would otherwise apply to the Collateral in question, and (b) the rights and remedies of a secured party under all other Applicable Law, including the ITA.

Section 4.07 Waivers of Rights Inhibiting Enforcement. The Pledgor waives (a) any claim that, as to any part of the Collateral, a public sale, should the Secured Party elect so to proceed, is, in and of itself, not a commercially reasonable method of sale for such Collateral, (b) the right to assert in any action or proceeding between it and the Secured Party any offsets or counterclaims that it may have, (c) except as otherwise provided in any of the Collateral Documents, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NOTICE OR JUDICIAL HEARING IN CONNECTION WITH THE SECURED PARTY'S TAKING POSSESSION OR DISPOSITION OF ANY OF THE COLLATERAL INCLUDING ANY AND ALL PRIOR NOTICE AND HEARING FOR ANY PREJUDGMENT REMEDY OR REMEDIES AND ANY SUCH RIGHT THAT THE PLEDGOR WOULD OTHERWISE HAVE UNDER THE CONSTITUTION OR ANY STATUTE OF THE UNITED STATES OR OF ANY STATE, AND ALL OTHER REQUIREMENTS AS TO THE TIME, PLACE AND TERMS OF SALE OR OTHER REQUIREMENTS WITH RESPECT TO THE ENFORCEMENT OF THE SECURED PARTY'S RIGHTS HEREUNDER, (d) all rights of redemption, appraisal, valuation, stay and extension or moratorium and (e) all other rights the exercise of which would, directly or indirectly, prevent, delay or inhibit the enforcement of any of the rights or remedies under the Collateral Documents or the absolute sale of the Collateral, now or hereafter in force under any Applicable Law, and the Pledgor, for itself and all who may claim under it, insofar as it or they now or hereafter lawfully may, hereby waive the benefit of all such laws and rights.

Section 4.08 Power of Attorney. (a) In addition to the other powers granted the Secured Party by the Pledgor under the Collateral Documents, the Pledgor hereby appoints the Secured Party, and any other Person that the Secured Party may designate, as the Pledgor's attorney-in-fact to act, in the name, place and stead of the Pledgor in any way in which the Pledgor itself could do, with respect to each of the following: (i) endorsing the Pledgor's name on (A) any checks, notes, acceptances, money orders, drafts or other forms of payment, (B) any proxies, documents, instruments, notices, freight bills, bills of lading or other documents or agreements relating to the Collateral, and (C) notices of assignment, financing statements and other public records; (ii) claiming for, adjusting, and instituting legal proceedings to collect, any amounts payable under

insurance, and applicable loss payable endorsements, required to be maintained under any of the Collateral Documents; (iii) taking any actions or exercising any rights, powers or privileges that the Pledgor is entitled to take or exercise and that, under the terms of any of the Collateral Documents, the Secured Party is authorized to take or exercise; (iv) doing or causing to be done any or all things necessary or, in the determination of the Secured Party, desirable to observe or perform the terms, conditions, covenants and agreements to be observed or performed by the Pledgor under the Collateral Documents and otherwise to carry out the provisions of the Collateral Documents; and (v) during an Event of Default, notifying the post office authorities to change the address for delivery of the Pledgor's mail to an address designated by the Secured Party, and receiving, opening and disposing of all mail addressed to the Pledgor (with all mail not constituting, evidencing or relating to the Collateral to be forwarded by the Secured Party to the Pledgor). The Pledgor hereby ratifies and approves all acts of the attorney.

(b) To induce any third Person to act under this Section 4.08, the Pledgor hereby agrees that any third Person receiving a duly executed copy or facsimile of this Agreement may act under this Section 4.08, and that the termination of this Section 4.08 shall be ineffective as to such third Person unless and until actual notice or knowledge of such termination shall have been received by such third Person, and the Pledgor, on behalf of itself and its successors and assigns, hereby agrees to indemnify and hold harmless any such third Person from and against any and all claims that may arise against such third Person by reason of such third Person having relied on the provisions of this Section 4.08.

Section 4.09 Termination of Security Interest. The Security Interest and all of the Pledgor's obligations under Articles 1, 2 and 3 shall terminate upon the latest of (a) the repayment, to the extent due, and, to the extent not due, the satisfaction or securing, in a manner acceptable to the Secured Party, of the Secured Obligations, (b) the termination of the Commitments, (c) the execution and delivery to the Secured Party of a release, in form and substance satisfactory to it, of all Loan Document Related Claims that the Loan Parties may have against the Indemnified Persons under the facts existing at such time, whether or not known or knowable, and (d) the discharge, dismissal with prejudice, settlement, release or other termination of any other Loan Document Related Claims that may be pending or threatened against the Indemnified Persons.

Section 4.10 Notices. No notice shall be effective under Sections 2.02(a)(viii), 2.02(b)(iii)(A) or 2.02(b)(iii)(B), unless it is specifically designated, in the case of a notice under Section 2.02(a)(viii), "Notice of Change of Executive Office and Books and Records", in the case of a notice under Section 2.02(b)(iii)(A), "Notice of Change of Name, Identity or Corporate Structure" and, in the case of a notice under Section 2.02(b)(iii)(B) "Notice of New Trade Name, Trade Style or Invoice", in the case of a notice under Section 2.02(a)(x)(A), unless it is specifically designated "Notice of New Location of Collateral."

Section 4.11 Governing Law. The rights and duties of the Pledgor, the Secured Party and the other Principals under Collateral Documents (including matters relating to the Maximum Permissible Rate) shall, pursuant to New York General Obligations Law Section 5-1401, be governed by the law of the State of New York, provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11301 and such additional rights, arising out of the filing, recording or deposit hereof, if any.

Section 4.12 LIMITATION OF LIABILITY. NEITHER THE SECURED PARTY NOR ANY OTHER PRINCIPAL SHALL HAVE ANY LIABILITY WITH RESPECT TO, AND THE PLEDGOR HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE FOR:

(a) ANY LOSS OR DAMAGE SUSTAINED BY THE PLEDGOR, OR ANY LOSS, DAMAGE, DEPRECIATION OR OTHER DIMINUTION IN THE VALUE OF ANY COLLATERAL, THAT MAY OCCUR AS A RESULT OF, IN CONNECTION WITH, OR THAT IS IN ANY WAY RELATED TO, ANY EXERCISE OF ANY RIGHT OR REMEDY UNDER THE COLLATERAL DOCUMENTS, EXCEPT FOR ANY SUCH LOSS, DAMAGE, DEPRECIATION OR DIMINUTION TO THE EXTENT THAT THE SAME IS DETERMINED BY A JUDGMENT OF A COURT THAT IS BINDING ON THE PLEDGOR AND SUCH PRINCIPAL, FINAL AND NOT SUBJECT TO REVIEW ON APPEAL, TO BE THE RESULT OF ACTS OR OMISSIONS ON THE PART OF SUCH PRINCIPAL CONSTITUTING (x) WILLFUL MISCONDUCT, OR (y) GROSS NEGLIGENCE; OR

(b) ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, AND, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, PUNITIVE, SUFFERED BY THE PLEDGOR IN CONNECTION WITH ANY COLLATERAL DOCUMENT RELATED CLAIM.

Section 4.13 Counterparts. Each Collateral Document may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto were upon the same instrument.

Section 4.14 Entire Agreement. This Agreement embodies the entire agreement among the Pledgor, the Secured Party and the Banks relating to the subject matter hereof and supersedes all prior agreements, representations and understandings, if any, relating to the subject matter hereof.

Section 4.15 Successors and Assigns. All of the provisions of each Collateral Document shall be binding upon and inure to the benefit of the Pledgor, the Secured Party and the other Principals and their respective successors and assigns.

Section 4.16 Delivery of Opinions Authorized. The Pledgor hereby acknowledges and agrees that each Person that has rendered or may render an opinion, report or similar communication, including legal opinions and accountant's reports, to any Person in connection with the Collateral Documents, has been and is hereby authorized and directed to so deliver such opinion, report or communication.

ARTICLE 5

INTERPRETATION

Section 5.01 Definitional Provisions. (a) Certain Terms Defined by Reference. (i) Except where the context clearly indicates a different meaning, all terms defined in Article 1, 8 or 9 of the Uniform Commercial Code, as in effect on the date of this Agreement, are used herein with the meanings therein ascribed to them; such terms include "account", "chattel paper", "commodity

account", "commodity contract", "control", "deposit account", "document", "equipment", "financial asset", "general intangibles", "goods", "instrument", "inventory", "investment property", "money", "proceeds", "securities account", "security", "security entitlement" and "security interest". In addition, the terms "account", "collateral" and "security interest", when capitalized, have the meanings specified in subsection (b) below and the term "deposit account" includes an account evidenced by a certificate of deposit.

(ii) Except in the case of "Agreement", "Agreement Date", "Collateral", "Intellectual Property", "Permitted Lien", "Representation and Warranty" and "Security Interest" and as otherwise specified herein, all terms defined in the Credit Agreement are used herein with the meanings therein ascribed to them.

(b) Other Defined Terms. For purposes of this Agreement:

"AAR" shall mean the Association of American Railroads.

"Agreement" means this Agreement, including all schedules, annexes and exhibits hereto.

"Agreement Date" means the date set forth as such on the last signature page hereof.

"Collateral" means the Pledgor's interest (WHATEVER IT MAY BE) in each of the following, IN EACH CASE WHETHER NOW OR HEREAFTER EXISTING OR NOW OWNED OR HEREAFTER ACQUIRED BY THE PLEDGOR AND WHETHER OR NOT THE SAME IS NOW CONTEMPLATED, ANTICIPATED OR FORESEEABLE, is subject to Article 8 or 9 of the Uniform Commercial Code or is Collateral by reason of one or more than one of the following clauses, AND WHEREVER THE SAME MAY BE LOCATED:

(i) all railroad cars, locomotives, railroad tank cars, covered hopper cars and other rolling stock, including the cars that are more fully described in Schedule 5.01(b) hereto, together with all accessories, equipment, parts and appurtenances appertaining or attached thereto;

(ii) all rights (contractual and otherwise) constituting, arising under, connected with, or in any way related to, any or all Collateral;

(iii) all books, records, ledgers, files, correspondence, computer programs, tapes, disks and related data processing software (owned by the Pledgor or in which it has an interest) that at any time evidence or contain information relating to any Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon;

(iv) all documents of title, policies and certificates of insurance, securities, chattel paper and other documents or instruments evidencing or pertaining to any Collateral;

(v) all other agreements and property that in any way relate to any Collateral;

(vi) all claims (including the right to sue or otherwise recover on such claims) (A) to items referred to in the definition of Collateral, (B) under warranties relating to any Collateral and (C) against third parties for (1)(aa) loss, destruction, requisition, confiscation,

condemnation, seizure, forfeiture or infringement of, or damage to, any Collateral, (bb) payments due or to become due under leases, rentals and hires of any Collateral, (cc) proceeds payable under or unearned premiums with respect to policies of insurance relating to any Collateral and (2) breach of any Contract constituting Collateral; and

(vii) all products and proceeds of Collateral in whatever form. The inclusion of "proceeds" of Collateral in the definition of "Collateral" shall not be deemed a consent by the Secured Party to any sale or other disposition of any Collateral not otherwise specifically permitted by the terms hereof.

"Collateral Debtor" means a Person obligated on, bound by, or subject to, a Collateral Obligation.

"Collateral Documents" means (i) this Agreement, (ii) the Security Agreement and (iii) all other agreements, documents and instruments related to, arising out of, or in any way connected with, (A) this Agreement, (B) the Security Agreement, (C) any other agreement, document or instrument referred to in this clause (iii), or (D) any of the transactions contemplated by this Agreement or any such other agreement, document or instrument, in each case whether now or hereafter executed.

"Collateral Obligation" means a Liability that is Collateral.

"Credit Agreement" means the Secured Credit Agreement, dated as of May 6, 1999, among Somerset Railroad Corporation, the Banks listed on the signature pages thereof and CIBC, Inc., as Agent.

"ITA" shall mean the ICC Termination Act of 1995, as amended, and the regulations and rulings promulgated thereunder.

"Permitted Lien" means (i) (A) a Lien for Taxes other than Bank Taxes not yet due and (B) any other Lien, such as those in favor of a landlord, warehouseman, carrier, or the like, arising by operation of law and incurred in the ordinary course of business that does not (1) arise under ERISA or under any environmental law or (2) secure an obligation (aa) that is (x) due and payable or (y) for borrowed money, or (bb) that, when aggregated with all other obligations secured by Liens otherwise permitted by this clause (i)(B) would exceed \$100,000 at any time outstanding, but only if the Secured Party shall not have requested the discharge thereof, and (ii) a Lien created in favor of the Secured Party under the Collateral Documents.

"Pledgor" means Somerset Railroad Corporation, a New York corporation.

"Principals" means all Persons that are, or at any time were, the Secured Party, the Agent, a Bank or any other Indemnified Person.

"Questionnaire" means the Questionnaire in the form attached as Schedule 2.02(c)(vi) to the Security Agreement executed and delivered by the Pledgor to the Secured Party in connection with the Security Agreement.

"Representation and Warranty" means each representation or warranty made pursuant to or under (i) Article 2 or any other provision of this Agreement, (ii) any of the other Collateral Documents or (iii) any amendment to, or waiver of rights under, this Agreement or any of the other Collateral Documents, WHETHER OR NOT, IN THE CASE OF ANY REPRESENTATION OR WARRANTY REFERRED TO IN CLAUSE (i), (ii) OR (iii) OF THIS DEFINITION (EXCEPT, IN EACH CASE, TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED), THE INFORMATION THAT IS THE SUBJECT MATTER THEREOF IS WITHIN THE KNOWLEDGE OF THE PLEDGOR.

"Secured Obligations" means all Liabilities of the Pledgor owing to, or in favor or for the benefit of, or purporting to be owing to, or in favor or for the benefit of, the Principals under the Loan Documents to which the Pledgor is a party, in each case (i) WHETHER NOW EXISTING OR HEREAFTER ARISING OR ACQUIRED, and (ii) whether owing to, or in favor or for the benefit of, or purporting to be owing to, or in favor or for the benefit of, Persons that are Principals as of the Agreement Date or that become Principals by reasons of any succession or assignment at any time thereafter.

"Secured Party" means the Agent, acting both on its own behalf as Agent and as the agent for and representative (within the meaning of Section 9-105(m) of the Uniform Commercial Code) of the other Principals.

"Secured Party's Office" means the address of the Secured Party specified in or determined in accordance with the provisions of Section 10.01(a)(ii)(B) of the Credit Agreement.

"Security Agreement" means the Security Agreement, dated as of May 6, 1999, among Somerset Railroad Corporation and CIBC, Inc., as Secured Party.

"Security Interest" means the assignments, mortgages, pledges, hypothecations, transfers and set overs to the Secured Party of, the continuing security interest of the Secured Party in, and the continuing lien of the Secured Party upon, the Collateral intended to be effected by the terms of this Agreement or any of the other Collateral Documents.

Section 5.02 Other Interpretative Provisions. (a) Except as otherwise specified herein, all references herein (i) to any Person shall be deemed to include such Person's successors and assigns, (ii) to any Applicable Law defined or referred to herein shall be deemed references to such Applicable Law or any successor Applicable Law as the same may have been or may be amended or supplemented from time to time and (iii) to any Loan Document or Contract defined or referred to herein shall be deemed references to such Loan Document or Contract (and, in the case of any instrument, any other instrument issued in substitution therefor) as the terms thereof may have been or may be amended, supplemented, waived or otherwise modified from time to time.

(b) When used in this Agreement, the words "herein", "hereof" and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any provision of this Agreement, and the words "Article", "Section", "Annex", "Schedule" and "Exhibit" shall refer to Articles and Sections of, and Annexes, Schedules and Exhibits to, this Agreement unless otherwise specified.

(c) Whenever the context so requires, the neuter gender includes the masculine or feminine, the masculine gender includes the feminine, and the singular number includes the plural, and vice versa.

(d) Any item or list of items set forth following the word “including”, “include” or “includes” is set forth only for the purpose of indicating that, regardless of whatever other items are in the category in which such item or items are “included”, such item or items are in such category, and shall not be construed as indicating that the items in the category in which such item or items are “included” are limited to such items or to items similar to such items.

(e) Each power of attorney, license and other authorization in favor of the Secured Party or any other Person granted by or pursuant to this Agreement shall be deemed to be irrevocable and coupled with an interest.

(f) Except as otherwise indicated, any reference herein to the “Collateral”, the “Secured Obligations”, the “Loan Documents”, the “Collateral Documents”, the “Principals” or any other collective or plural term shall be deemed a reference to each and every item included within the category described by such collective or plural term, so that (i) a reference to the “Collateral”, the “Secured Obligations” or the “Principals” shall be deemed a reference to any or all of the Collateral, the Secured Obligations or the Principals, as the case may be, and (ii) a reference to the “obligations” of the Pledgor under the “Loan Documents” or the “Collateral Documents” shall be deemed a reference to each and every obligation under each and every Loan Document or Collateral Document, as the case may be, whether any such obligation is incurred under one, some or all of the Loan Documents or the Collateral Documents, as the case may be.

(g) Except as otherwise specified therein, all terms defined in this Agreement shall have the meanings herein ascribed to them when used in the other Collateral Documents or any certificate, opinion or other document delivered pursuant hereto or thereto.

Section 5.03 Representations and Warranties. All Representations and Warranties shall be deemed made (a) in the case of any Representation and Warranty contained in this Agreement at the time of its initial execution and delivery, at and as of the Agreement Date, (b) in the case of any Representation and Warranty contained in this Agreement or any other document at the time any Loan is made, at and as of such time and (c) in the case of any particular Representation and Warranty, wherever contained, at such other time or times as such Representation and Warranty is made or deemed made in accordance with the provisions of this Agreement or the document pursuant to, under or in connection with which such Representation and Warranty is made or deemed made.


Section 5.04 Captions. Captions to Articles, Sections and subsections of, and Annexes, Schedules and Exhibits to, the Collateral Documents are included for convenience of reference only and shall not constitute a part of the Collateral Documents for any other purpose or in any way affect the meaning or construction of any provision of the Collateral Documents.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers all as of the Agreement Date.

SOMERSET RAILROAD
CORPORATION

By: _____
Name: Daniel W. Farley
Title: Secretary


CIBC, INC.,
as Secured Party

By: 
Name: **DENIS O'MEARA**
Title: **EXECUTIVE DIRECTOR**
CIBC Oppenheimer Corp., AS AGENT

Agreement Date:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers all as of the Agreement Date.

SOMERSET RAILROAD
CORPORATION

By: 
Name: Daniel W. Farley
Title: Secretary

CIBC, INC.,
as Secured Party

By: _____
Name:
Title:

Agreement Date:

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 6th day of May, 1999, before me, personally appeared Dennis P. O'Meara to me personally known, who being by me duly sworn, says that he resides at White Plains and is Executive Director of CIBC, Inc., that said instrument was signed on the date hereof on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary:

CINDY TATE
Notary Public, State of New York
No. 24-6014369
Qualified in Kings County
Commission Expires Oct 13, 2000

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On this 6th day of May, 1999, before me, personally appeared Daniel W. Farley to me personally known, who being by me duly sworn, says that he resides at Grandview Place, Endwell, N.Y. and is Secretary of Somerset Railroad Corporation, that said instrument was signed on the date hereof on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary.

MARK V. DOLAN
Notary Public, State of New York
Qualified in Broome County
Registration No. 02DO976515
My Commission Expires January 14, 2001

SCHEDULE OF REQUIRED ACTION

Pursuant to, and without thereby limiting, its obligations under Section 1.03, the Pledgor hereby agrees that it will:

- (a) file UCC-1 financing statements in the form of Schedule 1.01(a) to the Security Agreement;
- (b) cause this Agreement and any amendments or supplements hereto at all times to be recorded and filed, at no expense to the Secured Party, with the STB; and
- (c) at all times (i) mark its books and records as may be necessary or appropriate to evidence, protect and perfect the Security Interest, (ii) mark each item of Collateral as set forth in the first sentence of Section 2.06(a) of this Agreement, and (iii) cause its financial statements to reflect the Security Interest in Collateral with respect to which perfection is not effected by public filing or recording.

SCHEDULE OF REQUIRED RECORDING AND OTHER TAXES
AND RECORDING, FILING AND OTHER FEES AND CHARGES

Pursuant to, and without thereby limiting, its obligations under Section 2.05, the Pledgor hereby agrees that it will pay the required S.T.B. filing and recording fees under 49 U.S.C. 11301 and the regulations promulgated thereunder for the filing and recording of this Agreement and any amendment or supplement thereto in the current amount of twenty-six dollars (\$26.00).

DESCRIPTION OF INITIAL COLLATERAL
(INCLUDING IDENTIFYING NUMBERS PURSUANT TO SECTION 2.06)

1. The railroad freight cars manufactured by Ortner Freight Car company in 1983 and 1984 and assigned the following identification numbers:

SOM 101-132, 134-153, 155-163, 165-169, 171-176, 178-188,
200-205, 207-216, 218-235, 237-254, 256-257, 260-286,
288, 300-309, 400
2. The railroad freight cars manufactured by Bethlehem Steel Railcar Company in 1989 and assigned the following identification numbers:

SOM 501-502, 504-507, 509-510, 512-514, 516-526
3. The railroad freight cars manufactured by Johnstown America in 1993 and assigned the following identification numbers:

SOM 600-799, 801-831